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2 PHILLIP A. TALBERT
3 United States Attorney
4 ROBERT L. VENEMAN-HUGHES
5 Assistant United States Attorney
6 2500 Tulare Street, Suite 4401
7 Fresno, CA 93721
8 Telephone: (559) 497-4000
9 Facsimile: (559) 497-4099

10 Attorneys for Plaintiff
11 United States of America

12 IN THE UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA

14 UNITED STATES OF AMERICA,
15 Plaintiff,
16 v.
17 DONNIE HICKS,
18 Defendant.

19 CASE NO. 1:24-CR-00126-NODJ-BAM
20 PLEA AGREEMENT
21 DATE:
22 TIME:

23 I. INTRODUCTION

24 A. Scope of Agreement

25 The Indictment in this case charges the defendant with a violation of 18 U.S.C. § 933(a)(3),
26 Conspiracy to Traffic in Firearms. This document contains the complete plea agreement between the
27 United States Attorney's Office for the Eastern District of California (the "government") and the
28 defendant regarding this case. This plea agreement is limited to the United States Attorney's Office for
the Eastern District of California and cannot bind any other federal, state, or local prosecuting,
administrative, or regulatory authorities.

B. Court Not a Party

The Court is not a party to this plea agreement. Sentencing is a matter solely within the
discretion of the Court, and the Court may take into consideration any and all facts and circumstances

1 concerning the criminal activities of defendant, including activities that may not have been charged in
2 the Indictment. The Court is under no obligation to accept any recommendations made by the
3 government, and the Court may in its discretion impose any sentence it deems appropriate up to and
4 including the statutory maximum stated in this plea agreement.

5 If the Court should impose any sentence up to the maximum established by the statute, the
6 defendant cannot, for that reason alone, withdraw his guilty plea, and he will remain bound to fulfill all
7 of the obligations under this plea agreement. The defendant understands that neither the prosecutor,
8 defense counsel, nor the Court can make a binding prediction or promise regarding the sentence he will
9 receive.

10 II. DEFENDANT'S OBLIGATIONS

11 A. Guilty Plea

12 The defendant will plead guilty to Count One of the Indictment. The defendant agrees that he is
13 in fact guilty of these charges and that the facts set forth in the Factual Basis For Plea attached hereto as
14 Exhibit A are accurate.

15 The defendant agrees that this plea agreement will be filed with the Court and become a part of
16 the record of the case. The defendant understands and agrees that he will not be allowed to withdraw his
17 plea should the Court not follow the government's sentencing recommendations.

18 The defendant agrees that the statements made by him in signing this Agreement, including the
19 factual admissions set forth in the factual basis, shall be admissible and useable against the defendant by
20 the United States in any subsequent criminal or civil proceedings. The defendant waives any rights
21 under Rule 11(f) of the Federal Rules of Criminal Procedure and Rule 410 of the Federal Rules of
22 Evidence, to the extent that these rules are inconsistent with this paragraph or with this Agreement
23 generally.

24 B. Special Assessment

25 The defendant agrees to pay a special assessment of \$100 at the time of sentencing by delivering
26 a check or money order payable to the United States District Court to the United States Probation Office
27 immediately before the sentencing hearing. The defendant understands that this plea agreement is
28 voidable at the option of the government if he fails to pay the assessment prior to that hearing. If the

1 defendant is unable to pay the special assessment at the time of sentencing, he agrees to earn the money
2 to pay the assessment, if necessary by participating in the Inmate Financial Responsibility Program.

3 **C. Defendant's Violation of Plea Agreement or Withdrawal of Plea**

4 If the defendant, violates this plea agreement in any way, withdraws his plea, or tries to withdraw
5 his plea, this plea agreement is voidable at the option of the government. The government will no longer
6 be bound by its representations to the defendant concerning the limits on criminal prosecution and
7 sentencing as set forth herein. One way a defendant violates the plea agreement is to commit any crime
8 or provide any statement or testimony which proves to be knowingly false, misleading, or materially
9 incomplete. Any post-plea conduct by a defendant constituting obstruction of justice will also be a
10 violation of the agreement. The determination whether the defendant has violated the plea agreement
11 shall be decided under a probable cause standard.

12 If the defendant violates the plea agreement, withdraws his plea, or tries to withdraw his plea, the
13 government shall have the right: (1) to prosecute the defendant on any of the counts to which he pleaded
14 guilty; (2) to reinstate any counts that may be dismissed pursuant to this plea agreement; and (3) to file
15 any new charges that would otherwise be barred by this plea agreement. The defendant shall thereafter
16 be subject to prosecution for any federal criminal violation of which the government has knowledge,
17 including perjury, false statements, and obstruction of justice. The decision to pursue any or all of these
18 options is solely in the discretion of the United States Attorney's Office.

19 By signing this plea agreement, the defendant agrees to waive any objections, motions, and
20 defenses that the defendant might have to the government's decision to exercise the options stated in the
21 previous paragraph. Any prosecutions that are not time-barred by the applicable statute of limitations as
22 of the date of this plea agreement may be commenced in accordance with this paragraph,
23 notwithstanding the expiration of the statute of limitations between the signing of this plea agreement
24 and the commencement of any such prosecutions. The defendant agrees not to raise any objections
25 based on the passage of time with respect to such counts including, but not limited to, any statutes of
26 limitation or any objections based on the Speedy Trial Act or the Speedy Trial Clause of the Sixth
27 Amendment to any counts that were not time-barred as of the date of this plea agreement.

28 In addition: (1) all statements made by the defendant to the government or other designated law

1 enforcement agents, or any testimony given by the defendant before a grand jury or other tribunal,
2 whether before or after this plea agreement, shall be admissible in evidence in any criminal, civil, or
3 administrative proceedings hereafter brought against the defendant; and (2) the defendant shall assert no
4 claim under the United States Constitution, any statute, Rule 11(f) of the Federal Rules of Criminal
5 Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by
6 the defendant before or after this plea agreement, or any leads derived therefrom, should be suppressed.
7 By signing this plea agreement, the defendant waives any and all rights in the foregoing respects.

8
9 **III. THE GOVERNMENT'S OBLIGATIONS**

10 **A. Recommendations**

11 1. Incarceration Range

12 The government will recommend that the defendant be sentenced to the low end of the
13 applicable guideline range for his offense, as determined by the Court.

14 2. Supervised Release

15 The government will recommend that the defendant be sentenced to a term of supervised release
16 of 3 years.

17 3. Other Aspects of Sentencing

18 The government may recommend whatever it deems appropriate as to all other aspects of
19 sentencing.

20 4. Acceptance of Responsibility

21 The government will recommend a two-level reduction (if the offense level is less than 16) or a
22 three-level reduction (if the offense level reaches 16) in the computation of defendant's offense level if
23 he clearly demonstrates acceptance of responsibility for his conduct as defined in U.S.S.G. § 3E1.1.

24 This includes the defendant meeting with and assisting the probation officer in the preparation of the
25 pre-sentence report, being truthful and candid with the probation officer, and not otherwise engaging in
26 conduct that constitutes obstruction of justice within the meaning of U.S.S.G § 3C1.1, either in the
27 preparation of the pre-sentence report or during the sentencing proceeding.
28

1 **B. Use of Information for Sentencing**

2 The government is free to provide full and accurate information to the Court and the United
3 States Probation Office (“Probation”), including answering any inquiries made by the Court and/or
4 Probation, and rebutting any inaccurate statements or arguments by the defendant, his attorney,
5 Probation, or the Court. The defendant also understands and agrees that nothing in this Plea Agreement
6 bars the government from defending on appeal or collateral review any sentence that the Court may
7 impose.

8 **IV. ELEMENTS OF THE OFFENSE**

9 At a trial, the government would have to prove beyond a reasonable doubt the following
10 elements of the offense(s) to which the defendant is pleading guilty:

11 As to Count One, Conspiracy to Traffic in Firearms, in violation of 18 U.S.C. § 933(a)(3):

- 12 1. The defendant agreed with another person to traffic in firearms;
- 13 2. The defendant became a member of the conspiracy knowing at least one of his
14 objects and intending to help accomplish it;

15 Trafficking in firearms has the following elements:

- 16 1. The defendant knowingly transported, transferred or disposed of a firearm;
- 17 2. The transportation, transfer, or disposal of the firearm was in or otherwise
18 affecting interstate commerce; and
- 19 3. The defendant knew or had reasonable cause to believe the possession of the
20 firearm by the recipient would constitute a felony

21

22

23 The defendant fully understands the nature and elements of the crimes charged in the Indictment
24 to which he is pleading guilty, together with the possible defenses thereto, and has discussed them with
25 his attorney.

26 **V. MAXIMUM SENTENCE**

27 **A. Maximum Penalty**

28 The maximum sentence that the Court can impose is 15 of incarceration, a fine of \$250,000, a

1 three year period of supervised release and a special assessment of \$100.

2 **B. Violations of Supervised Release**

3 The defendant understands that if he violates a condition of supervised release at any time during
4 the term of supervised release, the Court may revoke the term of supervised release and require the
5 defendant to serve up to two years of additional imprisonment.

6 **VI. SENTENCING DETERMINATION**

7 **A. Statutory Authority**

8 The defendant understands that the Court must consult the Federal Sentencing Guidelines and
9 must take them into account when determining a final sentence. The defendant understands that the
10 Court will determine a non-binding and advisory guideline sentencing range for this case pursuant to the
11 Sentencing Guidelines and must take them into account when determining a final sentence. The
12 defendant further understands that the Court will consider whether there is a basis for departure from the
13 guideline sentencing range (either above or below the guideline sentencing range) because there exists
14 an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into
15 consideration by the Sentencing Commission in formulating the Guidelines. The defendant further
16 understands that the Court, after consultation and consideration of the Sentencing Guidelines, must
17 impose a sentence that is reasonable in light of the factors set forth in 18 U.S.C. § 3553(a).

18 **VII. WAIVERS**

19 **A. Waiver of Constitutional Rights**

20 The defendant understands that by pleading guilty he is waiving the following constitutional
21 rights: (a) to plead not guilty and to persist in that plea if already made; (b) to be tried by a jury; (c) to
22 be assisted at trial by an attorney, who would be appointed if necessary; (d) to pursue any affirmative
23 defenses, Fourth Amendment or Fifth Amendment claims, constitutional challenges to the statutes of
24 conviction, and other pretrial motions that have been filed or could be filed; (e) to subpoena witnesses to
25 testify on his behalf; (f) to confront and cross-examine witnesses against him; and (g) not to be
26 compelled to incriminate himself.

27 **B. Waiver of Appeal and Collateral Attack**

28 The defendant understands that the law gives the defendant a right to appeal his guilty plea,

conviction, and sentence. The defendant agrees as part of his plea/pleas, however, to give up the right to appeal any aspect of the guilty plea, conviction, or the sentence imposed in this case. The defendant understands that this waiver includes, but is not limited to, any and all constitutional and/or legal challenges to the defendant's conviction and guilty plea, including arguments that the statutes to which defendant is pleading guilty are unconstitutional, and any and all claims that the statement of facts attached to this agreement is insufficient to support the defendant's plea of guilty. The defendant specifically gives up the right to appeal any order of restitution the Court may impose.

Notwithstanding the defendant's waiver of appeal, the defendant will retain the right to appeal if one of the following circumstances occurs: (1) the sentence imposed by the District Court exceeds the statutory maximum; and/or (2) the government appeals the sentence in the case. The defendant understands that these circumstances occur infrequently and that in almost all cases this Agreement constitutes a complete waiver of all appellate rights.

In addition, regardless of the sentence the defendant receives, the defendant also gives up any right to bring a collateral attack, including a motion under 28 U.S.C. § 2255 or § 2241, challenging any aspect of the guilty plea, conviction, or sentence imposed in this case, except for non-waivable claims.

Notwithstanding the agreement in paragraph **Error! Reference source not found.** (Dismissals) above that the government will move to dismiss counts against the defendant, if the defendant ever attempts to vacate his plea, dismiss the underlying charges, or modify or set aside his sentence on any of the counts to which he is pleading guilty, the government shall have the rights set forth in paragraph II.C (Defendant's Violation of Plea Agreement) herein.

C. Waiver of Attorneys' Fees and Costs

The defendant agrees to waive all rights under the "Hyde Amendment," Section 617, P.L. 105-119 (Nov. 26, 1997), to recover attorneys' fees or other litigation expenses in connection with the investigation and prosecution of all charges in the above-captioned matter and of any related allegations (including without limitation any charges to be dismissed pursuant to this plea agreement and any charges previously dismissed).

D. Impact of Plea on Defendant's Immigration Status

Defendant recognizes that pleading guilty may have consequences with respect to his

immigration status if he is not a citizen of the United States. Under federal law, a broad range of crimes are removable offenses, including offense(s) to which the defendant is pleading guilty. The defendant and his counsel have discussed the fact that the charge to which the defendant is pleading guilty is an aggravated felony, or a crime that is likely to be determined to be an aggravated felony under 8 USC § 1101(a)(43), and that while there may be arguments that defendant can raise in immigration proceedings to avoid or delay removal, it is virtually certain that defendant will be removed. Removal and other immigration consequences are the subject of a separate proceeding, however, and defendant understands that no one, including his attorney or the district court, can predict to a certainty the effect of his conviction on his immigration status. Defendant nevertheless affirms that he wants to plead guilty regardless of any immigration consequences that his plea may entail, even if the consequence is his automatic removal from the United States.

VIII. ENTIRE PLEA AGREEMENT

Other than this plea agreement, no agreement, understanding, promise, or condition between the government and the defendant exists, nor will such agreement, understanding, promise, or condition exist unless it is committed to writing and signed by the defendant, counsel for the defendant, and counsel for the United States.

IX. APPROVALS AND SIGNATURES

A. Defense Counsel

I have read this plea agreement and have discussed it fully with my client. The plea agreement accurately and completely sets forth the entirety of the agreement. I concur in my client's decision to plead guilty as set forth in this plea agreement.

Dated: 2/7/2025


ROBERT LAMANUZZI
Counsel for Defendant

B. Defendant

I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it. Further, I have consulted with my attorney and fully understand my rights with respect to the provisions of the Sentencing Guidelines that may apply to my

1 case. No other promises or inducements have been made to me, other than those contained in this plea
2 agreement. In addition, no one has threatened or forced me in any way to enter into this plea agreement.
3 Finally, I am satisfied with the representation of my attorney in this case.

4
5 Dated: 2/7/25


DONNIE HICKS, Defendant

6
7 **C. Attorney for the United States**

8 I accept and agree to this plea agreement on behalf of the government.

9 Dated: January 12, 2025

PHILLIP A. TALBERT
United States Attorney


ROBERT L. VENEMAN-HUGHES
Assistant United States Attorney

EXHIBIT A
Factual Basis for Plea

If this matter proceeded to trial, the United States would establish the following facts beyond a reasonable doubt:

On April 21, 2024, undercover agents contacted Co-Conspirator 1 to see if he had any firearms for sale. Co-Conspirator 1 then sent the undercover agent a video of Co-Conspirator 2 holding a Glock 27 firearm, and provided the undercover agent with Donnie HICKS' phone number.

The undercover agent called Donnie HICKS and arranged to purchase the Glock 27 and set a location for the transaction. Shortly after the call, agents observed Donnie HICKS leave his apartment with a plastic bag and get into a vehicle with Co-Conspirator 2.

HICKS and Co-Conspirator 2 were stopped by police. In the vehicle was the plastic bag HICKS had been seen carrying, which contained a loaded, fully-automatic Glock 27 firearm. This is the same firearm Co-Conspirator 2 was seen holding in the video MOTON sent to the undercover agent.

HICKS, Co-Conspirator 1, and Co-Conspirator 2 all discussed the sale of the Glock 27 and agreed to sell it to the undercover agent. The conspiracy's goal was to transfer and dispose of a firearm to another person.

The Defendant knew that it would be a felony for a recipient to possess a machinegun like the Glock 27. The Glock 27 was not manufactured in California and thus traveled in interstate commerce.

I, DONNIE HICKS, have read the Factual Basis for Plea and agree to the facts and stipulations contained therein.

Dated: _____

2/7/25



DONNIE HICKS, Defendant